

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
MIDDLE DIVISION

HOMER EUGENE IVEY, )  
Petitioner, )  
v. ) CIVIL ACTION NO. 98-AR-1424-M  
JOSEPH F. HOPPER, ALABAMA )  
PRISON COMMISSIONER, and )  
THE ATTORNEY GENERAL FOR THE )  
STATE OF ALABAMA, )  
Respondents. )

*JW*  
**ENTERED**  
APR 04 2000

**MEMORANDUM OPINION**

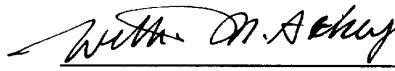
The petitioner challenges his aggravated stalking conviction received in the Circuit Court of Etowah County. On March 21, 2000, the magistrate judge assigned this matter entered a report and recommendation that the petition be denied. He found that the petitioner's conviction did not violate the double jeopardy clause and that his challenge to the aggravated stalking statute was procedurally barred and due to be denied on the merits. (Doc. 10).

On March 29, 2000, the petitioner filed his objections to the Magistrate Judge's Report and Recommendation. (Doc. 11). He asserts that the magistrate judge incorrectly concluded that the aggravated stalking prosecution in this case did not violate the double jeopardy clause when he found that the stalking prosecution (1) required proof of an additional fact which the criminal contempt charge did not; (2) required proof of repeated conduct that the contempt charge did not; and (3) did not require proof of wilfulness. The petitioner also objected to the finding that the constitutional challenge to the stalking statute is procedurally barred.

12

The court has considered the entire file in this action, including the Magistrate Judge's Report and Recommendation and the objections of the petitioner, and has reached an independent conclusion that the Magistrate Judge's Report and Recommendation is due to be adopted and approved. The court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusion of the court. In accordance with the recommendation, this petition for a writ of habeas corpus is due to be denied and dismissed with prejudice. An appropriate order will be entered.

**DONE**, this 3<sup>rd</sup> day of April, 2000.



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WILLIAM M. ACKER, JR.  
UNITED STATES DISTRICT JUDGE